REMARKS

Applicants respectfully request entry of the amendment and reconsideration of the claims. Claim 25 has been canceled without prejudice or disclaimer. Claims 17, 20, 23, and 24 have been amended. Claims 36-39 are newly presented. After entry of the amendment, claims 17, 20, 23, 24, 25, and 36-39 will be pending.

Applicants submit the amendment is supported throughout the specification, including for example at page 20, lines 33-36 and 40-41, page 23, lines 6-16, and page 50, line 26 to page 52, line 15, and does not raise any issues of new matter.

Double Patenting

Claims 17, 20, and 23-25 were rejected as being unpatentable over claims 15-18, 20, and 23-25 of copending Application No. 10/633,158. This is a provisional obviousness-type double patenting rejection. Applicants respectfully traverse this rejection.

If a provisional non-statutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications and the later-filed application is rejectable on other grounds, the Examiner should withdraw the provisional ODP rejection and permit the earlier filed application to issue as a patent without a terminal disclaimer. MPEP § 804(I)(B)(1). Applicants note that the present application was filed on March 20, 2002, while copending Application No. 10/663,158 was filed on September 15, 2003. The present application is therefore the earlier filed of the two applications.

Applicants acknowledge that the rejection will be held in abeyance until such time that is the only rejection remaining in the application. At such time, Applicants submit the double patenting rejection should be withdrawn as the present application is the earlier filed of the two applications.

Written Description

Claims 17, 20, 23-25. and 35 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Office Action alleges antibody fragments that only retain one antigen binding domain and activate TCCR are not adequately

described. The Examiner, however, acknowledges that agonist antibodies were known, that strategies for developing agonist antibodies were known, and that intact antibodies and antibody fragments that retain at least two antigen binding sites can act as agonists of cytokine receptor molecules by crosslinking receptor molecules.

Without acquiescing to the rejection and solely for the purpose of advancing prosecution, the claims have been amended to recite antibody molecules or fragments thereof that comprise two or more TCCR antigen binding sites. Applicants reserve the right to pursue the canceled subject matter in a continuation application.

The written description requirement must be applied in the context of the particular invention and state of the knowledge. *Capon v. Eschar*, 76 USPQ2d 1078, 1084 (Fed. Cir. 2005). It is unnecessary to spell out every detail of the invention in the specification. Only enough must be included to convince a person of skill in the art that the inventor possessed the invention. *Falkner v. Inglis*, No. 05-1234, slip. op. at 14 (Fed Cir. May 26, 2006) (citing *LizardTech, Inc. v. Earth Resource Mapping, PTY, Inc.,* 424 F.3d 1336, 1345 Fed. Cir. 2005). The specification describes antibodies molecules and fragments thereof comprising two or more TCCR antigen binding site, including bispecific antibodies, heteroconjugate antibodies, and diabodies that bind TCCR, and methods of identifying anti-TCCR antibody molecules or fragments thereof that have agonist activity. See, for example, the specification at page 19, line 36 to page 23, line 16, page 42, line 17 to page 43, line 30, and page 50, line 26 to page 52, line 15. The Examiner acknowledges strategies and methods for developing such agonist antibodies were known.

In view of the teachings and guidance provided in the specification and the knowledge and skill in the art regarding antibodies and strategies for developing agonist antibodies, Applicants submit the specification sufficiently describes the claimed genus of agonist antibodies and antibody fragments in sufficient detail such one skilled in the art could reasonably conclude that Applicants had possession of the claimed invention. Withdrawal of the written description rejection is respectfully requested.

Enablement

17, 20, 23-25, and 35 were rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. The Office Action alleges monovalent antibody fragments have agonist activity are not enabled. The Examiner, however, acknowledges that intact antibodies and antibody fragments that retain as least two antigen binding domains can act as agonists of a cytokine and that strategies for developing such agonist antibodies were known. Without acquiescing to the rejection and solely for the purpose of advancing prosecution, the claims have been amended to recite antibody molecules or fragments thereof that comprise two or more antigen binding sites. Applicants reserve the right to pursue the canceled subject matter in a continuation application.

In view of the teachings and guidance provided in the specification and the knowledge and skill in the art regarding antibodies and strategies for developing agonist antibodies, Applicants submit the full scope of the claims could be practiced without undue experimentation. Withdrawal of the enablement rejection is respectfully requested.

Summary

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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Date: 11 June 2007

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